

## LEASE AND OPERATING AGREEMENT

THIS LEASE AND OPERATING AGREEMENT ("Agreement") is made and entered into as of \_\_\_\_\_, 2011, and effective as of \_\_\_\_\_, by and between OHIO COUNTY, KENTUCKY, a political subdivision of the Commonwealth of Kentucky, by and through its Fiscal Court, 130 E. Washington Street, Hartford, Kentucky 42347 ("Owner"), and THE JERUSALEM RIDGE BLUEGRASS MUSIC FOUNDATION OF KENTUCKY, INC., a non-profit Kentucky Corporation, P.O. Box 429, Rosine, Kentucky 42370 ("Operator").

### WITNESSETH:

WHEREAS, Owner and Operator desire to enter into an arrangement whereby Operator will maintain and operate in and around the Bill Monroe Homeplace a museum and facilities in honor of Bill Monroe and bluegrass music on real property owned by Owner in order to honor bluegrass music and encourage tourism in Ohio County, and

WHEREAS, to fulfill these goals both Owner and Operator have agreed to certain conditions regarding the purpose and use of the property, including ownership and use of personal property, funds and equipment.

NOW, THEREFORE, for and in consideration of the mutual premises, terms, covenants and conditions contained herein and for other good and valuable consideration, Owner and Operator agree as follows:

### AGREEMENT

1. **Leased Premises.** In consideration of the terms, provisions, and covenants herein, Owner hereby leases to Operator a parcel of real property identified by the parties as a certain five (5) acre parcel located on US Highway 62 East, approximately 2 miles west of the town of Rosine, Ohio County, Kentucky, known as the "Homeplace" including the buildings, improvements, and fixtures located thereon, and all rights, privileges, easements, appurtenances and immunities belonging to or in any way pertaining to said land, buildings, improvements, and fixtures of the leased premises only. Owner does not purport to lease any real property not owned by the County or any building or facilities except for a certain mobile home, owned by Ohio County, Kentucky.

2. **Term.** The initial term of this Agreement shall be for a period of ten (10) years which shall commence upon the execution of this agreement (the "Commencement Date") and continue for a period of ten (10) years. At the expiration of the ten (10) year term, the parties may negotiate one ten (10) year extended term. The period of negotiations shall not exceed one hundred twenty (120) days after the expiration of this Agreement and during the negotiation period the Operator may continue to use the premises under the terms of this Agreement. If the parties are unable to negotiate an extended term of this Agreement, the Agreement shall

terminate and the Operator shall surrender the premises to the Owner by the expiration of the 120 day negotiation period.

3. **Rent.** Operator shall pay to the Owner ONE AND NO/100 DOLLARS (\$1.00) per year as rent for use of the Premises, delivered to Owner at the address listed above. Rent shall be due on Commencement Date and on the anniversary each year thereafter for the duration of this Agreement.

4. **Inspection.** Owner has the right to inspect the premises at any time, with the exception of the mobile/manufactured home located on real property adjacent to the premises, which shall be subject to inspection upon Owner providing Operator forty-eight (48) hours notice. The parties acknowledge that there may be certain improvements previously made by the Operator to real property adjacent to or within close proximity to the premises. The Owner does not purport to lease non-owned property and the parties agree that any improvements made to same have been made without the consent or permission of the Owner.

5. **Maintenance.** Operator shall maintain, upkeep, paint, and make all necessary repairs to the premises for the duration of this Agreement, with the exception that Owner shall be responsible for maintenance and repairs in the event of an emergency or natural disaster. Owner shall be solely responsible for maintaining the access road from U.S Highway 62 East to the premises. All other roads, lanes, or paths of travels on or providing access to the premises shall be maintained by the Operator.

6. **Utilities.** Operator shall be responsible for the payment of all utilities for the premises and facilities located thereon, with the exception of lighting and diesel costs associated with the Bluegrass Music Festival, for which Owner shall be responsible.

7. **Audits.** Operator shall submit to Owner a festival report and financial report, due on January 31 of each year. Owner, at its discretion, may order an audit of Operator's records to be performed by the Ohio County Treasurer. Should Operator disagree with Owner's audit, an independent auditor may audit Operator's records and the cost of such audit shall be paid equally by the Owner and Operator.

8. **Insurance.** Owner shall be responsible for the procurement and payment of all insurance for the premises, with the exception of liability insurance for the Bluegrass Music Festival. Operator shall be responsible for the procurement and payment of liability insurance for the annual festival. Operator shall provide to Owner a copy of the liability insurance policy no later than two weeks prior to the annual Bluegrass Music Festival. Upon request Owner shall provide Operator a copy of the insurance declaration page and terms of the policy. The dollar amount of the insurance coverage for improvements to the premises shall be determined by the Owner's insurance carrier. The Parties shall equally pay for expenses incurred for verification of the amount of insurance coverage for the improvements, i.e. appraisals, etc..

9. **Use.** The intended use of the premises and facilities located thereon is to operate a museum and maintain the grounds in honor of Bill Monroe and bluegrass music. A committee shall be formed consisting of three (3) Jerusalem Ridge Bluegrass Music Foundation members



and three (3) members appointed by the Ohio County Fiscal Court. Committee members shall serve for a period of three years, with the first member serving for a period of one year, the second member serving for a period of two years, and the third member serving a period of three years. Thereafter, each member shall serve a term of three years. All committee members may sign a mission statement consistent with the goals and intent of the Foundation to honor Bill Monroe and bluegrass music and all committee decisions shall be consistent with the goals of the parties.

10. **Use of Premises by Owner.** The Committee shall set a policy for operation of the premises and approve, by majority vote, the events proposed by the Owner. Should any vote concerning the Owner's proposed events or right to use result in a stalemate, the committee shall notify the Judge Executive in writing within seven days of the tie vote. In the event a committee vote results in a tie, the Ohio County Fiscal Court shall resolve the tie by majority vote of the Court.

11. **Eminent Domain.** Nothing in this Agreement confers to Operator the power or authority of Eminent Domain.

12. **Assignment and Subletting.** This Lease shall not be assigned, transferred, subleased, or delegated in whole or in part by the Operator without the prior written consent of the Owner.

13. **Use of the Bill Monroe Name.** This Agreement does not grant, assign, or otherwise allow the Operator to use the name or likeness of "Bill Monroe". The parties acknowledge that there is pending in Ohio Circuit Court, Hartford, Kentucky, litigation styled The Jerusalem Ridge Bluegrass Music Foundation of Kentucky, Inc., et. al. vs. Ohio County Industrial Foundation, Inc., being Action number 07-CI-00265. Should a final judgment be entered in that action awarding the Operator the exclusive use of the likeness or name of Bill Monroe, the terms of this paragraph shall be void and deemed not a part of this Agreement.

14. **Public Access.** During the term of this Agreement or an extension thereof, the Operator shall allow public access to the premises keeping same open for reasonable times and durations.

15. **Major Events.** A Major Event is defined as any event depicting the premises or any commercial activity in film or any other video production from which net revenues are paid to the Operator. The County shall receive fifteen percent (15%) of any net revenue generated from a Major Event.

16. **Mutual Covenants and Conditions.** As further consideration for this Agreement, both Owner and Operator agree to be bound by the following covenants and conditions:

a. All proceeds derived from the Foundation's annual Bluegrass Music Festival and other events produced by the Operator and subject to the approval of the six member Committee, shall belong to the Operator and remain under the exclusive control of the Operator.

b. Any equipment purchased by Owner or purchased with County funds and used by the Operator shall be the property of the Owner and may not be removed from the premises unless related to the use and/or improvement or maintenance and repairs of the equipment. Owner maintains control over the disposition of the equipment.

c. Ownership and title to any memorabilia purchased with Foundation festival proceeds shall be jointly owned by the Owner and Operator.

d. Any property, memorabilia, or other items specifically donated to the Operator shall be solely owned by the Operator. Items of personal property owned by the Owner shall not be removed from the premises without the written consent of the Owner. Within sixty (60) days of the execution of this Agreement, the Operator shall provide to the Owner a written list of the items of personal property which belong to the Owner and are in the possession of the Operator.

e. The Foundation Director shall be independent of the Owner. In the event the Director leaves the Foundation for any reason, the Operator shall be solely responsible for any funds due Director for his or her service to the Foundation.

f. Owner hereby agrees and covenants that it will give Operator reasonable notice when dignitaries visit Ohio County and Owner will actively aid Operator in connecting with state and federal leaders to promote the goals of the Foundation.

g. The Owner will, through its grant writing agency, Green River Area Development District, "GRADD", or any successor grant writing agency to aid and assist the Operator in seeking grant funding consistent with the Operator's Mission Statement. The Operator shall be solely responsible for identifying sources of grant funding and shall be responsible for the writing and applying of grants to the extent that those services are not otherwise provided by GRADD. Funds from grants awarded to the Owner where the Owner is named grantee or co-grantee shall be administered and distributed solely in the discretion of the Ohio County Treasurer.

17. **Termination.** This Agreement may be terminated prior to the expiration of the term contemplated by this Agreement:

a. by either party if a party ceases to exist, or

b. by either party if there is a material breach of this Agreement that cannot be reasonably cured after a period of thirty (30) days after written notice of a breach.

c. by Operator should it become bankrupt or insolvent, or file any debtor proceedings, or file a petition in bankruptcy or for reorganization or for the appointment of a receiver, or by mutual agreement between the parties.

18. **Survival of Covenants.** In the event this Agreement is terminated prior the expiration of the term, the covenants contained in paragraph 11 shall survive this Agreement.



19. **Governing Law.** This Agreement, including its formation, application, performance, enforcement, the relationship between the parties, and any claims, demands, causes of action and disputes in any way arising out of or related to it, shall be governed, construed and interpreted under the statutory and substantive law of the Commonwealth of Kentucky.

20. **Enforcement.** Either party may enforce the provisions of this Agreement in the Ohio Circuit Court, Ohio County, Kentucky. In the event a party must file a lawsuit to enforce or remedy a breach of this Agreement, the breaching party shall reimburse the non-breaching party for all costs, except attorney's fees, incurred in enforcing this Agreement. The Ohio Circuit or District Court, which ever has proper jurisdiction, shall have the exclusive jurisdiction and venue of any litigation arising between the parties regarding this Agreement or any other disputed issue between them.

21. **Further Assurances.** Each party shall execute, acknowledge and deliver all documents, provide all information, and take or forbear all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

22. **Amendments.** The waiver, amendment or modification of any provision of this Agreement or any right, power or remedy hereunder shall not be effective unless in writing and signed by both parties.

23. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written.

24. **Source of Title.** The source of title of the premises is a certain deed dated \_\_\_\_\_ and of record in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_, records of Ohio County Clerk.

25. **Notices.** All notices regarding any matter of this Agreement shall be given by delivery of same in U.S. Postal Service, regular mail or return delivery by the Ohio County Sheriff as follows:

- a. **Owner:** Ohio County Judge Executive, P.O. Box 146, Hartford, KY 42347.
- b. **Operator:** Jerusalem Ridge Bluegrass Music Foundation of Kentucky, P.O. Box 429, Rosine, KY 42370.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the day and year first written above.

OWNER:

**OHIO COUNTY, KENTUCKY**

ATTEST: \_\_\_\_\_

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_

OPERATOR:

**THE JERUSALEM RIDGE  
BLUEGRASS MUSIC FOUNDATION  
OF KENTUCKY, INC.**

ATTEST: \_\_\_\_\_

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_